Calendar No. 876

98TH CONGRESS
2d Session

SENATE

REPORT
98-450

MARINE MAMMAL PROTECTION ACT REAUTHORIZATION

MAY 16 (legislative day, MAY 14), 1984.—Ordered to be printed

Mr. PACKWOOD, from the Committee of Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2584]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2584) to provide authorization of appropriations for activities carried out under the Marine Mammal Protection Act of 1972, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and an amendment to the title and recommends that the bill do pass.

PURPOSE OF THE BILL

The bill, as reported, authorizes $12,755,000 for activities of three agencies pursuant to the Marine Mammal Protection Act of 1972 for fiscal year 1985. The bill also provides authorizations for fiscal years 1986 through 1988. In addition, the bill amends the act's provisions dealing with the Marine Mammal Commission and the tuna-porpoise issue.

BACKGROUND AND NEEDS

The current authorization for the Marine Mammal Protection Act of 1972 expires at the end of fiscal year 1984. It is necessary to reauthorize the act in order to permit continued appropriations.

In addition, the bill addresses two issues concerning the operation of the Marine Mammal Commission. The bill requires that the list of potential nominees submitted to the President by the four agencies charged with responsibility for reviewing candidates be a list which has been unanimously agreed upon by those four agencies after consultation among them. The purpose of this provision is to make sure that the President is receiving a list of candi-

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dates which the four agencies agree contains the best available people.

The bill also specifies that the Marine Mammal Commission should be staffed at a level of not fewer than 11 employees. This provision addresses a staffing shortage which has arisen at the Commission. The Commission currently operates with only 8 staff, whereas it operated with 11 during the late 1970's. This reduction has occurred despite the fact that the duties of the Commission are certainly no less broad now than 5 years ago.

The bill also contains a provision to extend statutorily the marine mammal permit held by the American Tunaboat Association. This permit allows the tuna industry to take a certain number of porpoise incidental to tuna fishing operations in the Eastern Tropical Pacific Ocean. The permit is being extended for several reasons, one of which is the fact that the industry has done a very commendable job of reducing porpoise mortality since the early 1970's. The incidental take level has been reduced from a number approaching 400,000 per year to less than the allowed quota of 20,500 per year.

In addition, the existing permit contains the requirement that the tuna industry accept the placement of Federal observers aboard tuna vessels. These observers are charged with responsibility for monitoring the industry's compliance with the act and the terms of the marine mammal permit. They also gather a variety of scientific data regarding porpoise stocks and tuna-porpoise interaction.

The question of observers has been contentious for many years. Recent litigation of the issue resulted in a Federal court upholding the statutory authority of the Department of Commerce to place observers on tuna vessels. This case has now gone to the Supreme Court. It is the view of the Committee that the legislative extension of the marine mammal permit is equivalent to a legislative reassertion of Congress' intent that the Department of Commerce have the authority to place observers aboard tuna vessels for enforcement purposes.

Finally, the Committee is concerned that U.S. vessels have been subject to tuna-porpoise regulation for years while foreign vessels have not. Therefore, tougher requirements are needed in the act to ensure that nations whose nationals want to import tuna into the United States require their own fishermen to adhere to standards for porpoise protection equal to our own.

Legislative History

S. 2584 was introduced by Senator Packwood on April 24, 1984 and was co-sponsored by Senator Hollings. The original bill consisted of a 4-year reauthorization of the act. Hearings were held on the bill on April 26. The hearings were conducted jointly by the full Committee and the National Ocean Policy Study.

On May 8, 1984, the Committee ordered the bill reported with an amendment in the nature of a substitute and an amendment to the title. The substitute language offered during the Committee's mark-up included not ony the 4-year reauthorization but also substantive amendments to the act.

Summary of Major Provisions

Sections 1, 2 and 3 of the bill contain the reauthorization of the act, and the amendments dealing with the operation of the Marine Mammal Commission which were described earlier in the Background and Needs section of this report.

Section 4 is the major provision of the bill. This is the section which provides the legislative extension of the marine mammal permit held by the American Tunaboat Association.

Section 4:

(1) Requires the Secretary of Commerce to obtain documentation that foreign nations wishing to export tuna to the United States are conducting tuna fishing operations in a manner which is no less protective of marine mammal populations than are the techniques used by the American tuna fleet. Nations which do not provide such documentation would be prohibited from exporting tuna to the United States.

(2) Legislatively extends the marine mammal permit held by the American Tunaboat Association.

(3) Requires the Secretary of Commerce to carry out a program of research on marine mammal populations to monitor the effect tuna fishing is having on them. If these populations are being adversely affected, the Secretary is required to take appropriate action to terminate the adverse impact.

(4) Requires the Secretary of Commerce to report on the results of the research outlined in paragraph 3 and to reference any funding problems which may be hampering such research.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., May 10, 1984.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 2584, a bill to provide authorization of appropriations for activities carried out under the Marine Mammal Protection Act of 1972, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Rudolph G. Penner,
Director.

Congressional Budget Office Cost Estimate

1. Bill number: S. 2584.

2. Bill title: A bill to provide authorization of appropriations for activities carried out under the Marine Mammal Protection Act of 1972, and for other purposes.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, May 8, 1984.

4. Bill purpose: S. 2584 authorizes appropriations for marine mammal conservation and management activities of the Marine Mammal Commission and the departments of Commerce and the Interior for fiscal years 1985 through 1988.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1985	1986	1987	1988	1989
Authorization level	12.8	13.4	14.1	14.8	.....
Estimated outlays	9.2	12.5	13.7	14.5	4.1

The costs of this bill fall within budget function 300.

Basis of Estimate

Authorization levels are as stated in the bill. For purposes of this estimate, it is assumed that the full amounts authorized will be appropriated prior to the beginning of each fiscal year. Outlays are estimated on the basis of historical spending patterns for these activities.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deb Reis.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

In general the bill retains the status quo regarding operation of the Marine Mammal Protection Act of 1972. Therefore, there will be little regulatory impact.

NUMBER OF PERSONS COVERED

Section 4 of the bill requires the Secretary of Commerce to make certain determinations regarding methods by which foreign nationals are conducting tuna fishing operations to make sure they are in accord with accepted U.S. standards of marine mammal protection. If it is found that such standards are not being met, then the Secretary shall take such action as necessary to prohibit the importation of tuna from those nations. In this sense, there will be a regulatory impact of foreign nationals who wish to export tuna to the United States.

The bill will have no impact domestically in terms of bringing more U.S. nationals under Federal regulation.

ECONOMIC IMPACT

Section 4 of the bill could have an economic impact on the tuna industries of those foreign nations which currently export tuna to the United States. This impact would only occur in the event they are unable to meet the requirements outlined in the bill.

The domestic tuna industry will actually realize a savings from the bill since section 4 provides a legislative estension of the existing marine mammal permit. This means the U.S. tuna industry will not have to make its case for permit renewal before an administrative law judge hearing. The tuna industry has estimated that not having to go through such a hearing will save between $700,000 and $1 million.

PRIVACY

There will be no privacy impact. While the legislative extension of the marine mammal permit does legislatively reinforce the requirement that Federal observers be placed aboard tuna vessels, this provision does not impose a new burden since existing law already authorizes the placement of such observers aboard tuna vessels.

PAPERWORK

The bill has two paperwork impacts. Foreign nations wishing to export tuna to the United States must provide documentation to the Secretary of Commerce that they are conducting tuna fishing operations in a manner which is in keeping with the conservationist methods used by the domestic fleet.

The bill also requires the Secretary of Commerce to conduct research into the status of porpoise stocks in the Eastern Tropical Pacific Ocean and to report on the results of such research.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Provides the following authorizations for the purpose of permitting appropriations to carry out the act:

	1985	1986	1987	1988
Department of Commerce	$9,300,000	$9,800,000	$10,300,000	$10,800,000
Department of the Interior	2,300,000	2,400,000	2,500,000	2,650,000
Marine Mammal Commission	1,155,000	1,225,000	1,275,000	1,325,000

In providing these authorizations, the Committee wishes to specify three particular areas of interest.

First, the Committee would like to see an amount on the order of $1 million appropriated to the Department of Commerce to enable it to develop and begin to implement a serious plan of action for dealing with the growing net entanglement problem. The Commit-

tee received testimony during the reauthorization hearing that some 50,000 north Pacific fur seals are being killed each year as a direct esult of net entanglement. In addition, hundreds of thousands of other marine mammals and seabirds are being killed.

The problem is also of particular concern to the commercial fishing industry since there is considerable evidence that a significant percentage of valuable fishery stocks may be going to waste by virtue of "ghost fishing" by lost or discarded fishing nets. The Committee will be looking into the entanglement issue in more detail later in the year, but in the mean time would like to see a vigorous program begun by the Department of Commerce to deal with the problem immediately. In any event, the Committee expects the National Marine Fisheries Service to make maximum preparations for the November net entanglement workshop in Honolulu and to develop a thorough action plan for alleviating the net entanglement problem that can be addressed at the workshop.

Concern has also been expressed about the need for additional research into marine mammal and fishery interactions and the effect of these interactions on the food chain in the north Pacific. Insufficient information exists for scientists to make a determination of how the food chain works. It is logical to assume that increasing levels of commercial fish harvests in the north Pacific, combined with expansion in several populations of marine mammals, is putting increasing pressure on the food supply. The Committee would like to see approximately $500,000 devoted to research on this issue, and recommends that this research be done in conjunction with work by the Alaska Department of Fish and Game.

The third issue of concern is the research program which is called for in section 4 of the bill. The Committee has directed the Secretary of Commerce to conduct research into the status of marine mammal stocks in the Eastern Tropical Pacific. The Committee has also directed that this research program focus on alternative fishing methods, including new ways of locating tuna and possible new gear types. Since the Committee believes that the ultimate solution to the tuna-porpoise problem will be the harvesting of tuna in ways that do not entail endangering porpoise, the Committee would like to see the Department of Commerce pursue research in this area as well as into stock sizes and population trends.

SECTION 2

Requires that the list of prospective nominees to the Marine Mammal Commission be the unanimous choices of the four agencies responsible for reviewing Commission candidates. The four agencies involved are: (1) National Science Foundation, (2) National Academy of Sciences, (3) Smithsonian Institution, and (4) Council on Environmental Quality.

These agencies review potential Commission nominees and submit a list of qualified candidates to the President. This amendment makes it clear that this list is to consist of the unanimous choices of the four agencies, and is to be submitted only after full

consultation among the agencies. This will help to insure that the President is choosing from the best possible candidates.

SECTION 3

Requires the Marine Mammal Commission to be staffed at a level of not fewer than 11 employees. It is the view of the Committee that the staff reductions which have taken place at the Commission over the past several years are detrimental to the agency's responsibilities under the act. A minimum of eleven employees are necessary if the Commission is to function effectively.

SECTION 4

Subsection (a) imposes a requirement on foreign nations which export tuna to the United States to demonstrate that they are enforcing against their own tuna vessels porpoise-protection regulations no less protective than the regulations of the United States.

This subsection requires such a foreign nation to submit to the Secretary of Commerce satisfactory documentary evidence that (1) it has adopted and enforces a legally-binding regulatory program governing the incidental taking of marine mammals by its tuna vessels that is no less protective than the U.S. tuna-porpoise program; and (2) the kill rate of marine mammals in tuna fishing during the year preceding the import authorization request is substantially equivalent to the comparable rate by U.S. vessels. Without such documentation, tuna imports would be banned. Satisfactory documentary evidence could include detailed observer reports on tuna fishing operations by the vessels of the country concerned.

Section 4 also provides an extension of the marine mammal permit currently held by the American Tunaboat Association.

The Committee feels that given the admirable progress made by the tuna industry in reducing the incidental take of porpoise, little would be gained by going through another Department of Commerce permit hearing once the current permit expires.

However, in taking this action the Committee wishes to make several points about the permit's extension. First, a number of changes are being made in the permit in conjunction with its extension. Specific quotas for incidental take are being included for coastal spotted dolphin and eastern spinner dolphin. The tuna industry has indicated that it will be able to comply with these quotas.

Second, the term and condition found in the current permit regarding accidental taking shall not apply to the new permit. This term and condition is described in 50 CFR 216. 24(d)(2)(i)(C).

Third, the condition under which the permit is being extended gives the National Marine Fisheries Service the authority to change certain regulations to guidelines in those cases where the agency feels such a change is justifiable.

The Committee also wishes to clarify the intent of the permit extension as it regards the Federal observer program. The current permit requires American tunaboat operators to accept the placing of Federal observers aboard their vessels. These observers are onboard for the act's research, monitoring, and enforcement purposes.

The tuna industry has contested the legal authority of the Department of Commerce in placing observers aboard tuna vessels for enforcement purposes. The issue is now before the Supreme Court. The Committee believes that the Department of Commerce does have the authority to place observers aboard tuna vessels for enforcement purposes, but at the same time, the Committee realizes that this issue has yet to be ruled on by the Supreme Court. With this in mind, the committee has decided to extend the current marine mammal permit, and thereby extend the requirement for observers to be placed aboard tuna vessels.

The Committee intends for its action in extending the permit to be viewed as a Congressional mandate of the observer system even in the event that the Supreme Court finds that the language of the original Marine Mammal Protection Act of 1972 was lacking in providing authority to the Department of Commerce regarding its ability to enforce the act through the placing of observers on tuna vessels.

Another portion of section 4 of the bill which should be clarified regards the requirement that the Secretary of Commerce conduct research into the condition of marine mammal stocks in the Eastern Tropical Pacific Ocean. This section directs the Secretary to "take such action as is necessary" in the event that this research shows that tuna fishing is having a "significant adverse effect" on these marine mammal stocks. The Committee wishes to make it clear that a "significant adverse effect" would be a situation in which the incidental take of marine mammals by the tuna industry is the direct cause of a continuing overall decline in the population of these stocks. Population declines due to natural causes would not be sufficient grounds for the alteration of quotas or fishing practices.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

The Act of October 9, 1981

Section 7 of that Act

Sec. 7. (a) There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under title I of the Marine Mammal Protection Act of 1972, $7,223,000 for fiscal year 1982, $8,000,000 for fiscal year 1983, [and] $8,800,000 for fiscal year 1984, *$9,300,000 for fiscal year 1985, $9,800,000 for fiscal year 1986, $10,300,000 for fiscal year 1987, and $10,800,000 for fiscal year 1988.*

(b) There are authorized to be appropriated to the Department of the Interior, for purposes of carrying out such functions and responsibilities as it may have been given under such title I, $1,600,000 for fiscal year 1982, $1,760,000 for fiscal year 1983,

[and] $2,000,000 for fiscal year 1984, *$2,300,000 for fiscal year 1985, $2,400,000 for fiscal year 1986, $2,500,000 for fiscal year 1987, and $2,650,000 for fiscal year 1988.*

(c) There are authorized to be appropriated to the Marine Mammal Commission, for purposes of carrying out title II of such Act of 1972, $672,000 for fiscal year 1982, $1,000,000 for fiscal year 1983, [and] $1,100,000 for fiscal year 1984, *$1,155,000 for fiscal year 1985, $1,225,000 for fiscal year 1986, $1,275,000 for fiscal year 1987, and $1,325,000 for fiscal year 1988.*

THE MARINE MAMMAL PROTECTION ACT OF 1972

SECTION 101 OF THAT ACT

SEC. 101. (a) There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this Act, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) * * *

(2) Marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued therefor under section 104 subject to regulations prescribed by the Secretary in accordance with section 103. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate; provided that this goal shall be satisfied in the case of the incidental taking of marine mammals in the course of purse seine fishing for yellowfin tuna by a continuation of the application of the best marine mammal safety techniques and equipment that are economically and technologically practicable. The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. The Secretary shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States. *In making such determination concerning the importation into the United States of yellowfin tuna, the Secretary shall require satisfactory documentary evidence from the government of any fishing nation seeking authorization to import into the United States yellowfin tuna caught with purse seines that—*

(i) it has adopted and enforces a legally binding regulatory program governing the incidental taking of marine mammals by its flag vessels in the course of such commercial fishing that is no less protective than that of the United States; and

(ii) beginning no later than January 1, 1986, the average rate (kill per ton of yellowfin tuna caught in association with porpoise) of such incidental taking by its flag vessels during the year preceding the request to import is substantially equivalent to the comparable rate of incidental taking by flag vessels of the United States.

(3)–(5) * * *

(b) * * *

SECTION 104 OF THAT ACT

Sec. 104. (a)–(g) * * *

(h)*(1)* Consistent with the regulations prescribed pursuant to section 103 of this title and to the requirements of section 101 of this title, the Secretary may issue general permits for the taking of such marine mammals, together with regulations to cover the use of such general permits.

(2)(A) Subject to subparagraph (B) of the paragraph, the general permit issued under paragraph (1) of this subsection on December 1, 1980 to the American Tunaboat Association is extended to authorize and govern the taking of marine mammals incidental to commercial purse seine fishing for yellowfin tuna during each year after December 31, 1984.

(B) The extension granted under subparagraph (A) of this paragraph is subject to the following conditions:

(i) the extension shall cease to have force and effect at the time such general permit is surrendered or terminated;

(ii) the permittee and certificate holders shall use the best marine mammal safety techniques and equipment that are economically and technologically practicable; and

(iii) during the period of such extension, the terms and conditions of such general permit that are in effect on the date of the enactment of this paragraph shall apply, except that—

(I) during each year of the extension, not to exceed 250 coastal spotted dolphin (Stenella attenuata) and not to exceed 2750 eastern spinner dolphin (Stenella longirostris) may be incidentally taken within the total number that may be taken under the general permit;

(II) The term and condition of the general permit concerning accidental taking shall not apply; and

(III) any modification resulting from the monitoring program required under paragraph (3)(A) of this subsection or form determinations relating to permit administration and to the need for fishing gear and practices shall supersede any of such terms and conditions (including a reduction of the quotas under subclause (I) of this clause) that are contrary to, or inconsistent with, that modification.

(3)(A) The Secretary shall, commencing on January 1, 1985, undertake a scientific research program to monitor for at least 5 consecutive years, and periodically as necessary thereafter, the indices of abundance and trends of marine mammal population stocks which are incidentally taken in the course of commercial purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean. If the Secretary determines, on the basis of the best scientific information

available (including information obtained under such program), that the incidental taking of marine mammals permitted under the general permit referred to in paragraph (2) of this subsection in having a significant adverse effect on a marine mammal population stock, the Secretary shall take such action as is necessary, after notice and an opportunity for an agency hearing on the record, to modify the applicable incidental take quotas or requirements for gear and fishing practices (or both such quotas and requirements) for such fishing so as to ensure that such marine mammal population stock is not significantly adversely affected by the incidental taking.

(B) For each calendar year after calendar year 1984, the Secretary shall include in the annual report to the public and the Congress under section 103(f) of this title a discussion of the proposed activities to be conducted each year as part of the program required by subparagraph (A) of this paragraph. If the Secretary determines that any such research (or research on new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals, as require under section 110(a) of this title) is desirable and feasible but cannot be conducted because of a lack of adequate funding, the Secretary shall so indicate in such report.

SECTION 201 OF THAT ACT

SEC. 201. (a) * * *

(b)(1) Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall make his selection from a [list, submitted to him by] *single list, submitted to him after consultation among* the Chairman of the Council on Environment Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences, of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

(2) * * *

(c)–(e) * * *

SECTION 206 OF THAT TITLE

SEC. 206. The Commission, in carrying out its responsibilities under this title, may—

(1) employ and fix the compensation of such personnel, *but no fewer than 11 employees*;

(2)–(5) * * *

as are consistent with and reasonably required to perform its functions under this title. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in

such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

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Calendar No. 877

98TH CONGRESS
2d Session

SENATE

REPORT
98-451

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION OCEAN AND COASTAL PROGRAM AUTHORIZATION ACT

MAY 16 (legislative day, MAY 14), 1984.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2538]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2538) to consolidate and authorize certain ocean and coastal programs and functions of the National Oceanic and Atomospheric Administration under the Department of Commerce, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill do pass.

PURPOSE OF BILL

The purpose of this bill is to authorize appropriations for several ocean and coastal programs of the National Oceanic and Atmospheric Administration (NOAA) for fiscal year 1985, and to authorize appropriations for the Deep Seabed Hard Mineral Resources Act for fiscal years 1985, 1986 and 1987.

BACKGROUND AND NEEDS

NOAA was created in 1970 by Executive order, and vested with the primary responsibility for most of the Federal Government's civilian research, service and regulatory programs affecting the Nation's oceans and atmosphere. The work of NOAA is critical for efficient weather forecasting and the sound management and productive use of the Nation's ocean and coastal resources. Included among these programs are those administered by the National Weather Service, the National Ocean Service, the National Marine Fisheries Service and the Office of Sea Grant.

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The scope of NOAA's responsibilities has increased considerably in the 14 years since its creation. In the decade of the 1970's national concern for the environment and an awareness of ever-increasing demands on our oceanic and atmospheric resources were reflected by the enactment of a significant number of legislative initiatives aimed at enhancing environmental protection and promoting wise management of these resources.

This bill is part of a comprehensive legislative package to reauthorize NOAA programs and includes authorizations for: (1) Nonliving Marine Resource activities, (2) The Sea Grant College Program, (3) The Ocean Thermal Energy Conversion (OTEC) program, (4) The National Advisory Committee on Oceans and Atmosphere (NACOA), and (5) The Deep Seabed Hard Mineral Resources Act.

NONLIVING MARINE RESOURCES

NOAA's activities in nonliving marine resources include its research on polymetallic sulfides, involving the acquisition of basic data and information, and general survey work.

Polymetallic sulfides are of significant scientific interest both in their potential for aiding understanding of the process of coastal evolution, and in their economic potential. In 1978, a team of international scientists, using NOAA's manned diving submersible *Alvin,* explored several ocean floor sites and discovered massive metallic sulfide deposits on the sea floor. Their discovery generated research by scientists from the U.S. Geological Survey and the University of Washington on the Juan de Fuca Ridge off the coast of Oregon and Washington, and research by NOAA scientists on the Galapagos Ridge in the eastern tropical Pacific Ocean.

Polymetallic sulfide samples that have been collected from these hydrothermal vent areas contain high concentrations of zinc, iron, and copper, and trace percentages of manganese, molybdenum, lead, silver, vanadium, cobalt, gallium, cadmium, platinum, and gold. The utilization of polymetallic deposits may offer advantages over the mining of manganese nodules, since polymetallic sulfides are found in shallower depths and in dense concentrations.

NOAA has initiated programs to inform industry of the commercial potential of polymetallic sulfide deposits, and will continue to collect data on the Gorda and Juan de Fuca Ridges to determine if the deposits warrant commercial exploitation.

The Committee supports continued research on polymetallic sulfides.

SEA GRANT

The National Sea Grant College Program Act dates back to 1966 and is aimed at increasing the understanding, utilization, and conservation of the Nation's ocean and coastal resources. The program is designed to "achieve the gainful use of marine resources" through a partnership among Federal and State Governments, universities, and the private sector.

Much of the Sea Grant Program's effectiveness can be attributed to the conceptual framework within which the program operates—a partnership among State and Federal Governments, universities, and private industries. Collectively, the partnership arrangement

provides a comprehensive research and application effort that is focused on the development of marine resources through a national network of universities and institutions of higher learning. The national network orientation of the program is essential to providing education, research, and advisory services that embrace a broad array of marine scientific, engineering, and commercial activities.

The Sea Grant program operates by providing assistance through grants to promote a strong educational base, responsive research and training activities, and prompt, broad dissemination of knowledge and techniques.

The Sea Grant Program awards three different types of national grants, all of which require at least a one-third match from non-Federal sources.

In addition to these national grants, the International Cooperative Assistance Program was established by Congress in 1976. This program was aimed at promoting cooperation between U.S. academic institutions and their counterparts in developing countries. The primary goals of the program included: (1) the enhancement of research and development capabilities of developing countries in relation to their ocean and coastal resources; and (2) the exchange of information and technology transfer with any nation. In 1980, the Program was renamed the "Sea Grant International Program." At the same time, its goals were broadened to include all foreign nations, not just developing nations.

The International Program, like the National Program, is also funded on a matching basis with participating foreign academic institutions.

The Sea Grant network has grown over the years, and now consists of some 19 Sea Grant colleges plus an additional dozen other major programs. Since 1968, Sea Grant has trained about 7,000 students, primarily at the graduate level, and helped to sponsor a tremendous variety of research relating to the ocean sector of the economy. For example, the Pacific Sea Grant College Program in Alaska, Hawaii, California, Oregon, and Washington, in close coordination, are working to develop, use, and conserve the vast resources of the Pacific Ocean. Sea Grant research has helped to make computer technology a normal part of the operations of small ports and individual fishermen. In Washington, Sea Grant's pioneering work in underwater acoustics has not only created a new technology that is transforming fishery management, but in addition has created a new domestic industry; the manufacture of high precision acoustic instrumentation.

The Committee believes that the Sea Grant Program is cost-effective and vital. The Committee has consistently supported the continuation of Sea Grant despite administration proposals to terminate the program. Testimony received by the Committee strongly supports the international program of Sea Grant and the Committee intends that this program be adequately funded.

OCEAN THERMAL ENERGY CONVERSION

OTEC is the principal ocean technology currently being investigated as an alternative source of energy. The Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) was enacted in

order to establish a regulatory framework for the development of U.S. OTEC enterprises.

Under the act, NOAA is directed to establish a legal regime and to provide for licensing of OTEC facilities. The licensing process specified by the act requires that NOAA implement a one-stop licensing process for all relevant Federal permits. The act also requires that NOAA submit to the Congress a 5-year plan for a program to assess environmental effects of OTEC facilities and plantships.

Pursuant to the act, NOAA has issued final regulations governing the issuance of commercial OTEC licenses and published technical guidance for license applicants. In addition, although not specifically required by the act, NOAA has issued an impact statement describing the potential environmental impacts of construction and operation of commercial OTEC plants in the United States.

NOAA's implementation of its responsibilities under the OTEC Act has been carried out in consultation with private industry, a large number of Federal and State agencies, and public interest groups. NOAA's final OTEC licensing regulations provide the option of a consolidated application review that includes regular working-level meetings to coordinate scheduling of agency proceedings, consolidation of public hearings, and informal consultations designed to avoid major differences in the permitting decisions made by the individual agencies. Representatives of State and local agencies whose permits will be required for the OTEC project are invited to participate.

The Committee believes that the act is important in providing a stable and predictable regulatory framework for ocean thermal energy conversion licensing and environmental research, from which private sector development of this alternate energy source can emerge.

THE NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

The NACOA was established in 1971 to advise the President and the Congress on marine and atmospheric science and service programs. In 1975, the charter was amended to add responsibilities for national ocean policy and coastal zone management. NACOA's 18 members are appointed for 3-year terms by the President, and must have expertise in disciplines related to oceans and atmospheric policy.

NACOA's assessments and recommendations are provided in an annual report to the President and the Congress. In addition, NACOA's recommendations may be provided through special reports, position statements, and direct correspondence to senior officials in Federal agencies and departments and to individual members of Congress. The Committee's recommendations also are presented through testimony at Congressional hearings.

During 1983, NACOA produced three major reports, in addition to its Annual Report. These reports include "Marine Transportation in the United States: Constraints and Opportunities"; "U.S. Coast Guard: Status, Problems, and Potential"; and "The Nation's River and Flood Forecasting and Warning Service."

The administration proposed elimination of NACOA in fiscal year 1985.

The Committee supports continued funding of NACOA because of its importance as an independent advisor both to the executive and the Congress.

DEEP SEABED HARD MINERAL RESOURCES ACT

The Deep Seabed Hard Mineral Resources Act promotes the orderly and environmentally sound exploration for, and development of, manganese nodule deposits of the deep seabed.

The United States is dependent on foreign sources for many strategic metals, including cobalt, manganese, and nickel. Cobalt, which the United States imports primarily from Zaire and Zambia, is used for the high-temperature alloys necessary in the aerospace industry. Manganese, imported primarily from Australia, Brazil, and South Africa, is required in the steel industry. Nickel, used mainly in stainless steel and other high temperature steel alloys, is supplied by Australia and Canada. All of these strategic metals are contained in manganese nodules.

Manganese nodules were first discovered during the 1873–76 oceanographic voyage of the HMS *Challenger*, but remained scientific curiosities until their value as potential mineral resources was realized in the late 1950's. Main commercial interest currently is focused on an area in the east-central Pacific Ocean that contains a higher concentration of high-grade nodules than other surveyed areas.

Since dependence on foreign sources of metals can lead to uncertainties in supply, manganese nodules and their potential for insuring a stable supply of strategic minerals are of considerable interest.

There are several important components to the act for which NOAA is responsible:

(1) Development of regulations for licenses for exploration;
(2) Development of regulations for commercial recovery;
(3) Continuing environmental research; and
(4) Arrangements to encourage international cooperation.

The act authorizes the Administrator of NOAA to issue to eligible U.S. applicants licenses to explore for deep seabed hard minerals and permits to mine the minerals commercially. NOAA has taken major steps to meet its obligations under the act. In 1981, final regulations for exploration activities were issued, as well as an impact statement and technical guidance to assist applicants in the submission of environmental data.

In 1982, NOAA received applications from four mining consortia with U.S. company members. These applications were deemed complete, thus establishing consortia priorities of right, with the exception of certain unresolved issues pertaining to specific sites. In January 1984, NOAA received final amendments from the mining consortia which reflected resolution of those remaining conflicts. In April 1984, NOAA certified each of the four consortia for licensing, subject to the public participation procedures specified by the act. NOAA expects to issue a draft Environmental Impact Statements for each site by May 1984.

Following exploration and test mining activities under exploration licenses, the next stage in development of deep seabed mine sites involves issuance of commercial recovery permits. The act prohibits commercial recovery before January 1, 1988; however, to prepare for that time and to give U.S. companies the fullest picture of the legal framework under which they would operate, NOAA is currently developing commercial recovery regulations.

In addition to establishing a legal framework for deep seabed mining, the act also requires NOAA to accelerate environmental assessment of the effects of exploration and commercial recovery. NOAA has prepared a 5-year plan for fiscal years 1981–85.

In the international arena, the act authorizes NOAA, in consultation with the Secretary of State and the heads of other departments and agencies, to designate as "reciprocating states" those nations which establish seabed mining programs compatible with the U.S. program and that recognize U.S. licenses and permits.

NOAA has participated in discussions with other nations to develop arrangements for mutual recognition of seabed mining licenses. The United States, United Kingdom, Federal Republic of Germany, and France signed an agreement on criteria for pioneer explorer recognition and for resolving conflicts among pioneer applications. Representatives of these and other mining nations (Japan, Italy, Belgium, and the Netherlands) are continuing discussion of principles to govern the next generation of seabed mining agreements.

In addition to these activities, NOAA is exploring activities which may reduce uncertainties for the fledgling seabed mining industry, such as cooperation among licensees, and coordination of other relevant regulatory licenses and permits.

The Committee believes that the act plays an important role in promoting the orderly and environmentally-sound development of manganese nodule deposits of the deep seabed. The Committee believes that the act can help to reduce U.S. dependence on potentially unstable foreign supplies of strategic minerals.

Summary of Major Provisions

The National Oceanic and Atmospheric Administration Ocean and Coastal Program Authorization Act includes authorizations for five programs, for the fiscal years and in the amounts as shown:

(1) Nonliving Marine Resources, $2,500,000 for fiscal year 1985;

(2) Sea Grant, $42 million for fiscal year 1985;

(3) Ocean Thermal Energy Conversion (OTEC), $630,000 for fiscal year 1985;

(4) National Advisory Committee on Oceans and Atmosphere (NACOA), $630,000 for fiscal year 1985; and

(5) Deep Seabed Hard Mineral Resources Act, $1,500,000 for each of fiscal years 1985, 1986, 1987.

Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget

Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 11, 1984.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2538, the National Oceanic and Atmospheric Administration Ocean and Coastal Program Authorization Act.

If you wish further details on the estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2538.

2. Bill title: National Oceanic and Atmospheric Administration Ocean and Coastal Program Authorization Act.

3. Bill status: As ordered reported by the Senate Committee on Commerce, Science and Transportation, May 8, 1984.

4. Bill purpose: This bill authorizes appropriations of $47.26 million for fiscal year 1985 for the National Oceanic and Atmospheric Administration to administer ocean and coastal programs. These include the national sea grant college program, ocean thermal energy conversion activities, the National Advisory Committee on Oceans and Atmosphere, nonliving marine resources programs, and deep seabed hard minerals activities. In addition, the bill authorizes the appropriation of such additional sums as may be necessary for increases in salary, pay, and other employee benefits.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1985	1986	1987	1988	1989
Authorization level:					
Specified (function 300)	47.3	1.5	1.5		
Estimated (function 920)	.1				
Total	47.4	1.5	1.5		
Estimated outlays					
Function 300	32.1	13.8	2.9	1.4	0.1
Function 920	.1	(1)			
Total	32.2	13.8	2.9	1.4	.1

[1] Less than $50,000.

BASIS OF ESTIMATE

Specified authorizations are as stated in the bill. Additional authorizations for pay are consistent with CBO's baseline projections. For purposes of this estimate, the full amounts authorized are assumed to be appropriated prior to the beginning of each fiscal year. Outlays are estimated based on historical spending patterns for these programs.

6. Estimated cost to State and local governments: None.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Deb Reis.
10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

The bill, as reported, merely provides the vehicle to annually authorize appropriations, much of which have previously been funded pursuant to standing authorization and will result in no new regulatory burdens. The part of the nonliving marine resources subactivity that has previously been funded under standing authorization will now be funded pursuant to this act.

Section-by-Section Analysis

SECTION 1

Cites the title as the National Oceanic and Atmospheric Administration Ocean and Coastal Program Authorization Act.

SECTION 101

Authorizes appropriations of $2,500,000 for fiscal year 1985 for nonliving marine resource program activities, and clarifies that such funds are in addition to funds authorized pursuant to the Deep Seabed Hard Mineral Resources Act and the Ocean Thermal Energy Conversion Act.

This budget subactivity has, in the past, been partially carried out pursuant to standing authorization under "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes" (33 U.S.C. 883a et seq.). This authorization may also be used to cover duties relating to nonliving marine resources specified by any other existing statute.

SECTION 201

Authorizes appropriations of $42 million for fiscal year 1985 for the National Sea Grant College Program Act. In addition, $1 million of this overall amount is authorized for Sea Grant's international program.

SECTION 301

Authorizes appropriations of $630,000 for fiscal year 1985 for the Ocean Thermal Energy Conversion Act.

SECTION 401

Authorizes appropriations of $630,000 for fiscal year 1985 for the National Advisory Committee on Oceans and Atmosphere Act.

SECTION 501

Authorizes appropriations of $1,500,000 for each of fiscal years 1985, 1986 and 1987 for the Deep Seabed Hard Mineral Resources Act.

SECTION 601

Authorizes appropriations to cover such increases in salary, pay and employee benefits as may be authorized by law.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

THE SEA GRANT PROGRAM IMPROVEMENT ACT OF 1976

SECTION 3 OF THAT ACT

SEC. 3. (a)—(b) * * * *

(c) There are authorized to be appropriated for purposes of carrying out this section not to exceed the following amounts:

(1)—(3) * * * *

(4) For fiscal year 1985, not to exceed $1,000,000 in such fiscal year appropriated pursuant to section 212 of the National Sea Grant College Program Act may be available to carry out this section.

Such sums as may be appropriated under this section shall remain available until expended.

THE DEEP SEABED HARD MINERAL RESOURCES ACT

SECTION 310 OF THAT ACT

SEC. 310. There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of titles I and II and this title, such sums as may be necessary for the fiscal years ending September 30, 1981, and September 30, 1982, and $1,469,000 for the fiscal year ending September 30, 1983, [and] $2,150,000 for the fiscal year ending September 30, 1984, *and $1,500,000 for each of the fiscal years ending September 30, 1985, September 30, 1986, and September 30, 1987.*

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